



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 6360-98

9 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for reconsideration for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 17 February 1967 at age 17. Your record reflects that you received two nonjudicial punishments. The offenses included assault and attempted robbery of a fellow Marine and disobedience of a lawful order.

Subsequently, on 18 November 1969 you were convicted by civil authorities of breaking and entering. You were sentenced to confinement for 21 to 24 months. On 17 September 1970 the commanding officer recommended that you be separated with an undesirable discharge by reason of misconduct due to the civil conviction. When informed of the recommendation, you elected to waive your right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation was approved and you were discharged with an undesirable discharge on 18 September 1970.

On 5 August 1986 and 14 January 1998 this Board reviewed and

denied your requests to change the characterization of your discharge. Your last request was based on your alleged post traumatic stress disorder (PTSD).

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and service in Vietnam, and the contention that you have PTSD and were drunk at the time of the offense. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given the seriousness of the offense. In this regard, alcohol abuse does not excuse misconduct. Further, you have provided no evidence to support the contention that you had PTSD while on active duty and your record contains no such evidence. Therefore, the Board concluded that no change to the discharge is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Copy to: Ms. Susan Kellogg